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HOUSE BILL 1233

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

DELORES C. WRIGHT

AN ACT

RELATING TO CAMPAIGNS; PROHIBITING CERTAIN CAMPAIGN  
CONTRIBUTIONS; PROHIBITING CAMPAIGN MAILINGS WITHIN TEN DAYS OF  
THE DATE OF THE ELECTION; AMENDING REPORTING REQUIREMENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 1-19-26 NMSA 1978 (being Laws 1979,  
Chapter 360, Section 2, as amended) is amended to read:

"1-19-26. DEFINITIONS. --As used in the Campaign Reporting  
Act:

A. "anonymous contribution" means a contribution the  
contributor of which is unknown to the candidate or his agent or  
the political committee or its agent who accepts the  
contribution;

B. "bank account" means an account in a financial  
institution located in New Mexico;

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1           C. "campaign committee" means two or more persons  
2 authorized by a candidate to raise, collect or expend  
3 contributions on the candidate's behalf for the purpose of  
4 electing him to office;

5           D. "candidate" means an individual who seeks or  
6 considers an office in an election covered by the Campaign  
7 Reporting Act, including a public official, who either has filed  
8 a declaration of candidacy or nominating petition or:

9                   (1) for a non-statewide office, has received  
10 contributions or made expenditures of one thousand dollars  
11 (\$1,000) or more or authorized another person or campaign  
12 committee to receive contributions or make expenditures of one  
13 thousand dollars (\$1,000) or more for the purpose of seeking  
14 election to the office; or

15                   (2) for a statewide office, has received  
16 contributions or made expenditures of two thousand five hundred  
17 dollars (\$2,500) or more or authorized another person or  
18 campaign committee to receive contributions or make expenditures  
19 of two thousand five hundred dollars (\$2,500) or more for the  
20 purpose of seeking election to the office or for candidacy  
21 exploration purposes in the years prior to the year of the  
22 election;

23           E. "contribution" means a gift, subscription, loan,  
24 advance or deposit of any money or other thing of value,  
25 including the estimated value of an in-kind contribution, that

1 is made or received for a political purpose, including payment  
2 of a debt incurred in an election campaign, but does not include  
3 the value of services provided without compensation or  
4 unreimbursed travel or other personal expenses of individuals  
5 who volunteer a portion or all of their time on behalf of a  
6 candidate or political committee, nor does it include the  
7 administrative or solicitation expenses of a political committee  
8 that are paid by an organization that sponsors the committee;

9 F. "deliver" or "delivery" means by certified or  
10 registered mail, by telecopier, electronic mail or facsimile or  
11 by personal service;

12 G. "election" means any primary, general or  
13 statewide special election in New Mexico and includes county and  
14 judicial retention elections but excludes municipal, school  
15 board and special district elections;

16 H. "election year" means an even-numbered year in  
17 which an election covered by the Campaign Reporting Act is held;

18 I. "expenditure" means a payment, transfer or  
19 distribution or obligation or promise to pay, transfer or  
20 distribute any money or other thing of value for a political  
21 purpose, including payment of a debt incurred in an election  
22 campaign or pre-primary convention, but does not include the  
23 administrative or solicitation expenses of a political committee  
24 that are paid by an organization that sponsors the committee;

25 J. "foreign source" means a person who is not a

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1 resident of the United States or a corporation or business  
2 entity not doing business in the United States;

3 [~~J.~~] K. "person" means an individual or entity;

4 [~~K.~~] L. "political committee" means two or more  
5 persons, other than members of a candidate's immediate family or  
6 campaign committee or a husband and wife who make a contribution  
7 out of a joint account, who are selected, appointed, chosen,  
8 associated, organized or operated primarily for a political  
9 purpose and includes political action committees or similar  
10 organizations composed of employees or members of any  
11 corporation, labor organization, trade or professional  
12 association or any other similar group that raises, collects,  
13 expends or contributes money or any other thing of value for a  
14 political purpose; provided that a political committee includes  
15 a single individual who by his actions represents that he is a  
16 political committee;

17 [~~L.~~] M. "political purpose" means influencing or  
18 attempting to influence an election or pre-primary convention,  
19 including a constitutional amendment or other question submitted  
20 to the voters;

21 [~~M.~~] N. "prescribed form" means a form prepared and  
22 prescribed by the secretary of state;

23 [~~N.~~] O. "proper filing officer" means either the  
24 secretary of state or the county clerk as provided in Section 1-  
25 19-27 NMSA 1978;

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1           [~~0-~~] P. "public official" means a person elected to  
2 an office in an election covered by the Campaign Reporting Act  
3 or a person appointed to an office that is subject to an  
4 election covered by that act;

5           [~~P-~~] Q. "reporting individual" means every public  
6 official, candidate or treasurer of a campaign committee and  
7 every treasurer of a political committee; and

8           [~~Q-~~] R. "statement of exception" or "statement"  
9 means the prescribed form subscribed and sworn to by a candidate  
10 to indicate that the candidate does not intend to raise or  
11 expend the minimum amount required for the filing of a report of  
12 expenditures and contributions as provided in Section 1-19-33  
13 NMSA 1978. "

14           Section 2. Section 1-19-29 NMSA 1978 (being Laws 1993,  
15 Chapter 46, Section 5, as amended) is amended to read:

16           "1-19-29. TIME AND PLACE OF FILING REPORTS. --

17           A. Annually, all reporting individuals shall file  
18 with the proper filing officer by 5:00 p.m. on the second Monday  
19 in ~~May~~ a report of all expenditures made and contributions  
20 received on or before the first Monday in ~~May~~ and not previously  
21 reported. The report shall be filed annually until the  
22 reporting individual's bank account has been closed and the  
23 other provisions specified in Subsection E of this section have  
24 been satisfied.

25           B. In an election year, in addition to the ~~May~~

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1 report provided for in Subsection A of this section, all  
2 reporting individuals, except for persons who file a statement  
3 of exception pursuant to Section 1-19-33 NMSA 1978 and except  
4 for public officials who are not candidates in an election that  
5 year, shall file reports of all expenditures made and  
6 contributions received according to the following schedule:

7 (1) by 5:00 p.m. on the second Monday in  
8 October, a report of all expenditures made and contributions  
9 received on or before the first Monday in October and not  
10 previously reported;

11 (2) by 12:00 noon on the Friday before a  
12 primary, general or statewide special election, a report of all  
13 expenditures made [~~and contributions received~~] by 5:00 p.m. on  
14 the Tuesday before the election [~~Any contribution or pledge to~~  
15 ~~contribute that is received after 5:00 p.m. on the Tuesday~~  
16 ~~before the election and that is for five hundred dollars (\$500)~~  
17 ~~or more in a non-statewide election, or two thousand five~~  
18 ~~hundred dollars (\$2,500) or more in a statewide election, shall~~  
19 ~~be reported to the proper filing officer in a supplemental~~  
20 ~~report on a prescribed form within twenty-four hours of receipt,~~  
21 ~~except that any such contribution or pledge to contribute that~~  
22 ~~is received after 5:00 p.m. on the Friday before the election~~  
23 ~~may be reported by 12:00 noon on the Monday before the election]~~  
24 and all contributions received by 5:00 p.m. on the tenth day  
25 before the election; and

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1                   (3) by 5:00 p.m. on the thirtieth day after a  
2 primary, general or statewide special election, a report of all  
3 expenditures made and contributions received on or before the  
4 twenty-fifth day after the election and not previously reported.

5                   C. Notwithstanding the other provisions of this  
6 section, the report due on the thirtieth day after an election  
7 need be the only report filed after the annual May report if the  
8 candidate is not opposed in the election and if the report  
9 includes all expenditures made and contributions received for  
10 that election and not previously reported.

11                   D. A report of expenditures and contributions filed  
12 after a deadline set forth in this section shall not be deemed  
13 to have been timely filed.

14                   E. Each reporting individual shall file a report of  
15 expenditures and contributions annually pursuant to the filing  
16 schedule set forth in this section until the reporting  
17 individual delivers a report to the proper filing officer  
18 stating that:

- 19                               (1) there are no outstanding campaign debts;  
20                               (2) all money has been expended in accordance  
21 with the provisions of Section 1-19-29.1 NMSA 1978; and  
22                               (3) the bank account has been closed.

23                   F. Each treasurer of a political committee shall  
24 file a report of expenditures and contributions annually  
25 pursuant to the filing schedule set forth in this section until

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1 the treasurer files a report that affirms that the committee has  
2 dissolved or no longer exists and that its bank account has been  
3 closed.

4 G. A reporting individual who is a candidate within  
5 the meaning of the Campaign Reporting Act because of the amount  
6 of contributions he receives or expenditures he makes and who  
7 does not ultimately file a declaration of candidacy or a  
8 nominating petition with the proper filing officer shall  
9 nevertheless file a report, not later than the second Monday in  
10 May for a primary election or the second Monday in October for a  
11 general election, of all contributions received and expenditures  
12 made on or before the first Monday in May for a primary election  
13 or the first Monday in October for a general election, and not  
14 previously reported. "

15 Section 3. A new section of the Campaign Reporting Act is  
16 enacted to read:

17 " [NEW MATERIAL] FOREIGN SOURCE CAMPAIGN CONTRIBUTIONS--  
18 PROHIBITIONS. --No foreign source may make contributions to a  
19 candidate or his campaign committee with respect to an election  
20 for an office covered by the Campaign Reporting Act or to a  
21 political party to be distributed to a candidate or his campaign  
22 committee with respect to an election for an office covered by  
23 the Campaign Reporting Act. "

24 Section 4. A new section of the Campaign Reporting act is  
25 enacted to read:

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1           " [NEW MATERIAL] CAMPAIGN CONTRIBUTIONS-- PROHIBITED DURING  
2 TEN-DAY PERIOD PRIOR TO ELECTION. --No candidate or campaign  
3 committee shall accept any contribution during the ten days  
4 immediately preceding a primary, general or statewide special  
5 election. "

6           Section 5. A new section of the Campaign Reporting act is  
7 enacted to read:

8           " [NEW MATERIAL] CAMPAIGN LITERATURE-- PROHIBITIONS ON  
9 MAILINGS. --No candidate or campaign committee shall mail any  
10 campaign literature, circular, letter or similar written  
11 material, either by direct or bulk mailing, during the ten-day  
12 period immediately preceding a primary, general or special  
13 election. "

14           Section 6. Section 1-19-31 NMSA 1978 (being Laws 1979,  
15 Chapter 360, Section 7, as amended) is amended to read:

16           "1-19-31. CONTENTS OF REPORT. --

17           A. Each required report of expenditures and  
18 contributions shall be typed or printed legibly, or on a  
19 computer disc or format approved by the secretary of state, and  
20 shall include:

21                   (1) the name and address of the person or  
22 entity to whom an expenditure was made or from whom a  
23 contribution was received, except as provided for anonymous  
24 contributions or contributions received from special events as  
25 provided in Section 1-19-34 NMSA 1978; provided that for

1 contributors, the name of the entity or the first and last names  
2 of any individual shall be the full name of the entity or  
3 individual, and initials only shall not constitute a full name  
4 unless that is the complete legal name;

5 (2) the occupation or type of business of any  
6 person or entity making contributions of [~~two hundred fifty~~  
7 ~~dollars (\$250)~~] one hundred dollars (\$100) or more in the  
8 aggregate per election;

9 (3) the amount of the expenditure or  
10 contribution or value thereof;

11 (4) the purpose of the expenditure; and

12 (5) the date the expenditure was made or the  
13 contribution was received.

14 B. The report of expenditures and contributions  
15 shall be subscribed and sworn to by the candidate or the  
16 treasurer of the political committee. If the report of  
17 expenditures and contributions is filed in an electronically  
18 readable format, the report shall be subscribed and sworn to in  
19 an independent affidavit signed by the candidate or the  
20 treasurer of the political committee and delivered to the  
21 secretary of state within forty-eight hours after the report is  
22 electronically filed.

23 C. Each report shall contain an opening and closing  
24 cash balance for the bank account maintained by the reporting  
25 individual during the reporting period and the name of the

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1 financial institution.

2 D. Each report shall specify the amount of each  
3 unpaid debt and the identity of the person to whom the debt is  
4 owed. "

5 Section 7. Section 1-19-35 NMSA 1978 (being Laws 1979,  
6 Chapter 360, Section 11, as amended) is amended to read:

7 "1-19-35. REPORTS AND STATEMENTS--LATE FILING PENALTY--  
8 FAILURE TO FILE.--

9 A. Except for the report required to be filed and  
10 delivered the Friday prior to the election [~~and any supplemental~~  
11 ~~report, as required in Paragraph (2) of Subsection B of Section~~  
12 ~~1-19-29 NMSA 1978, that is due prior to the election]~~, and  
13 subject to the provisions of Section 1-19-34.4 NMSA 1978, if a  
14 statement of exception or a report of expenditures and  
15 contributions contains false or incomplete information or is  
16 filed after any deadline imposed by the Campaign Reporting Act,  
17 the responsible reporting individual or political committee, in  
18 addition to any other penalties or remedies prescribed by the  
19 Election Code, shall be liable for and shall pay to the  
20 secretary of state fifty dollars (\$50.00) per day for each  
21 regular working day after the time required by the Campaign  
22 Reporting Act for the filing of statements of exception or  
23 reports of expenditures and contributions until the complete or  
24 true statement or report is filed, up to a maximum of five  
25 thousand dollars (\$5,000).

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1           B. If any reporting individual files a false,  
2 incomplete or late report of expenditures and contributions due  
3 on the Friday prior to the election, the reporting individual or  
4 political committee shall be liable and pay to the secretary of  
5 state five hundred dollars (\$500) for the first working day and  
6 fifty dollars (\$50.00) for each subsequent working day after the  
7 time required for the filing of the report until the true and  
8 complete report is filed, up to a maximum of five thousand  
9 dollars (\$5,000).

10           ~~[C. If a reporting individual fails to file or files~~  
11 ~~a late supplemental report of expenditures and contributions as~~  
12 ~~required in Paragraph (2) of Subsection B of Section 1-19-29~~  
13 ~~NMSA 1978, the reporting individual or political committee shall~~  
14 ~~be liable for and pay to the secretary of state a penalty equal~~  
15 ~~to the amount of each contribution received or pledged after the~~  
16 ~~Tuesday before the election that was not timely filed.~~

17           ~~D.]~~ C. All sums collected for the penalty shall be  
18 deposited in the state general fund. A report or statement of  
19 exception shall be deemed timely filed only if it is received by  
20 the proper filing officer by the date and time prescribed by  
21 law.

22           ~~[E.]~~ D. Any candidate who fails or refuses to file a  
23 report of expenditures and contributions or statement of  
24 exception or to pay a penalty imposed by the secretary of state  
25 as required by the Campaign Reporting Act shall not, in addition

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1 to any other penalties provided by law:

2 (1) have his name printed upon the ballot if  
3 the violation occurs before and through the final date for the  
4 withdrawal of candidates; or

5 (2) be issued a certificate of nomination or  
6 election, if the violation occurs after the final date for  
7 withdrawal of candidates or after the election, until the  
8 candidate satisfies all reporting requirements of the Campaign  
9 Reporting Act and pays all penalties owed.

10 [F.] E. Any candidate who loses an election and who  
11 failed or refused to file a report of expenditures and  
12 contributions or a statement of exception or to pay a penalty  
13 imposed by the secretary of state as required by the Campaign  
14 Reporting Act shall not be, in addition to any other penalties  
15 provided by law, permitted to file a declaration of candidacy or  
16 nominating petition for any future election until the candidate  
17 satisfies all reporting requirements of the Campaign Reporting  
18 Act and pays all penalties owed. "